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**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA**

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³
Debtors.

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No. BK-S-06-10725 LBR

**APPLICATION FOR ORDER TO
SHOW CAUSE WHY OBJECTION TO
MOUNTAIN WEST MORTGAGE LLC
PROOF OF CLAIM SHOULD NOT BE
SUSTAINED**

Hearing Date: June 12, 2009
Hearing Time: 9:30 a.m.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

The USACM Liquidating Trust (the "USACM Trust") respectfully requests that the Court enter an order requiring Mountain West Mortgage LLC to appear before the Court on June 12, 2009 at 9:30 and show cause why the USACM Trust's Objection to Proof of Claim 10725-00203 filed by Mountain West Mortgage LLC should not be sustained now

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 that MWM is unrepresented by legal counsel. This Application is supported by the
2 following Memorandum of Points and Authorities, all papers and pleadings filed in this
3 bankruptcy case, and such argument as the Court may entertain.

4 **JURISDICTION AND VENUE**

5 1. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and
6 1334. Venue is appropriate under 28 U.S.C. §§ 1408 and 1409.

7 2. This matter is a core proceeding under 28 U.S.C. § 157(b)(2)(A) and (O).

8 **BACKGROUND**

9 3. On April 13, 2006 (the “Petition Date”), USA Commercial Mortgage
10 Company, USA Capital Realty Advisors, LLC, USA Capital Diversified Trust Deed Fund,
11 LLC, USA Capital First Trust Deed Fund, LLC, and USA Securities, LLC (collectively,
12 the “Debtors”) filed voluntary petitions for relief under Chapter 11 of the Bankruptcy
13 Code. The Debtors’ Third Amended Joint Chapter 11 Plan of Reorganization became
14 effective on March 12, 2007 (the “Effective Date”), and the USACM Trust succeeded to
15 certain claims and causes of action held by USACM.

16 4. In connection with its investigation of such claims and causes of action, the
17 Trust has filed objections to claims filed by various parties.

18 5. On March 13, 2007, The USACM Trust filed an Objection of the USACM
19 Liquidating Trust to Proof of Claim Filed By Mountain West Mortgage/Lerin Hills
20 (“MWM”) (the “Objection”) (Claim No. 203) [DE 3078].

21 6. On March 13, 2007, the USACM Trust served the Objection and a Notice of
22 Hearing on MWM. On March 15, 2007, the USACM Trust filed its requisite notice of
23 service with the Court.

24 7. On June 6, 2007, MWM filed a Reply to the Objection [DE 3904].

25 8. Pursuant to various stipulations the hearing has been continued various times
26 and is now scheduled for hearing on May 18, 2009.

1 9. On February 19, 2009, a Motion to Withdraw as Attorney of Record [DE
2 6838] was filed by Marjorie A. Guyman on behalf of MWM.

3 10. The Motion to Withdraw came before the Court for hearing on April 10,
4 2009. No objections were filed and the Motion was granted. The order has not been
5 entered by the Court.

6 **POINTS AND AUTHORITIES**

7 11. Corporations and partnerships must prosecute their case through an attorney.
8 *Rowland v. California Men's Colony*, 506 U.S. 194, 201 (1993), *Licht v. American West*
9 *Airlines, Inc. (In re American West Airlines, Inc.)*, 164 B.R. 315, 317 (9th Cir. Bankr.
10 1994). MWM cannot prosecute its own case and is no longer represented by legal counsel
11 who can. Accordingly, the Court should order MWM to appear and show cause why the
12 USACM Trust's Objection should not be sustained.

13 **CONCLUSION**

14 12. For all of the foregoing reasons, the USACM Trust respectfully requests that
15 this Court order MWM to appear at the omnibus hearing on June 12, 2009 at 9:30 a.m. and
16 show cause why the USACM Trust's objection to Proof of Claim No. 10725-00203 should
17 not be sustained because MWM no longer has legal counsel. A form of order is provided
18 for the Court's consideration.

19 DATED: April 28, 2009.

20 **LEWIS AND ROCA LLP**

21 By: /s/ JH (#018024)

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26 Counsel for USACM Liquidating Trust

LEWIS
AND
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LAWYERS

PROOF OF SERVICE

Copy of the foregoing mailed by First
Class, U.S. Mail, postage prepaid, on
April 28, 2009 to the following parties:

Mountain West Mortgage
630 Trade Center Drive
Las Vegas, NV 89119

/s/ Carrie Lawrence
Carrie Lawrence